

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM A. NICOTRA and U.S. POSTAL SERVICE,
POST OFFICE, Vancouver, WA

*Docket No. 00-1914; Submitted on the Record;
Issued April 16, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained injuries to his knees in the performance of duty.

The Board has duly reviewed the case record on appeal and finds that this case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim.² When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office of Workers' Compensation Programs begins with an analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁴

On January 18, 2000 appellant, then a 54-year-old letter carrier, filed a notice of occupational disease, alleging that throughout the day on November 23, 1999, while carrying a heavy mailbag, he experienced a series of sharp shooting pains in his right knee, each lasting a

¹ 5 U.S.C. §§ 8101-8193.

² See *Margaret A. Donnelley*, 15 ECAB 40 (1963).

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(q), 10.5(ee) ("occupational disease or illness" and "traumatic injury" defined).

⁴ *John J. Carlone*, *supra* note 3.

few seconds. He stated that the pain returned on November 24, 1999 and by the end of the day was constant. Appellant missed intermittent days from work but did not stop work completely.

By letter dated March 15, 2000, the Office informed appellant that the position description, supervisor's statement and medical progress notes submitted in support of his claim were insufficient to establish entitlement and requested that appellant submit additional information, to include a rationalized medical report from his treating physician, explaining the nature of appellant's condition and its causal relationship, if any, to his employment duties. On April 7, 2000 appellant submitted a letter describing the employment duties he felt had caused his claimed conditions and additional medical evidence.

In a decision dated April 21, 2000, the Office denied appellant's claim on the grounds that the record contained no well-rationalized medical opinion to establish that he had sustained an employment-related injury.

It is undisputed that appellant's job duties involve carrying heavy bags of mail and the medical evidence establishes that he developed knee pain, first in the right knee and later in the left knee, and sought medical attention for these complaints. The question therefore becomes whether the duties he performed at work caused or aggravated the knee conditions for which he seeks compensation.

Causal relationship is a medical issue,⁵ and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁶ must be one of reasonable medical certainty⁷ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incidents or factors of employment.⁸

The relevant medical evidence of record consists of a series of weekly treatment notes from various physicians, nurses and physician's assistants at Kaiser Permanente health clinic, beginning November 26, 1999. A clinic note dated November 26, 1999 notes that appellant complained of gradual right inner knee pain of approximately a week's duration and reported that his new mailbag was rubbing his knee and pushing it inward. The note contained a diagnosis of tendinitis and indicated that appellant reported no previous injuries. A report dated December 17, 1999 documented appellant's complaint of developing pain in his left knee from attempting to compensate for his right knee. This report, as well as a report dated December 30, 1999, also documented appellant's comments that his pain began when he started using a different mailbag which rested against his knees. These reports both contain a diagnosis of knee strain or sprain.

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁷ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁸ *See William E. Enright*, 31 ECAB 426, 430 (1980).

In response to the Office's request for additional medical evidence, appellant submitted additional treatment notes, including a note dated March 28, 2000, from Dr. Lindsey Martinson, a Board-certified family practitioner and Kaiser physician. In this note, Dr. Martinson lists a diagnosis of right knee strain or strain and further states: "This injury is work related and due to the very heavy mail loads in the side-carried bags especially from the loops with large amounts of mail. This places the knee at increased stress from the weight carried."

The medical record in this case lacks a well-reasoned narrative from a physician explaining how appellant's knee complaints are causally related to his specific employment duties, especially in light of the fact that the record contains evidence that appellant has preexisting, service-connected bilateral knee problems. Nonetheless, the Board finds that the medical reports submitted by appellant raise an inference of causal relationship, either direct or by aggravation, sufficient to require further development of the case record by the Office.⁹ The Board will set aside the Office's April 21, 2000 decision and remand the case for further development of the medical evidence. Following such further development as may be necessary, the Office shall issue an appropriate final decision on appellant's claim.

The April 21, 2000 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this opinion.¹⁰

Dated, Washington, DC
April 16, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁹ See *John J. Carlone, supra* note 3 (finding that the medical evidence was not sufficient to discharge appellant's burden of proof but remanding the case for further development of the medical evidence given the uncontroverted inference of causal relationship raised).

¹⁰ Subsequent to the Office's final decision appellant submitted new medical and factual evidence to the Office, and additional evidence to the Board on appeal. The Board cannot consider this evidence on appeal, however, as it was not before the Office at the time of the final decision; see *Dennis E. Maddy*, 47 ECAB 259 (1995); 20 C.F.R. § 501.2(c).